# EXPLANATORY STATEMENT

## Issued by authority of the Minister for Energy and Emissions Reduction

*National Greenhouse and Energy Reporting Act 2007*

*National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020*

**Background**

The *National Greenhouse and Energy Reporting Act 2007* (the Act) provides a framework for the reporting of emissions, energy production and consumption in Australia. It also provides for the Safeguard Mechanism to place limits on the net emissions of the largest facilities in Australia.

The *National Greenhouse and Energy Reporting (Measurement) Determination 2008* (“the Determination”) was made under section 10 of the Act, which provides for the Minister to determine methods, or criteria for methods, for the measurement of (a) greenhouse gas emissions; (b) the production of energy; and (c) the consumption of energy.

The *National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update) Determination 2020* (“the 2020 Update Determination”) was made on 15 June 2020 to amend the Determination to:

* Update emission factors based on updated Global Warming Potentials (GWPs), which are used to convert emissions values of non-carbon dioxide gases into carbon dioxide equivalent values, in order to align the NGER scheme with the Australian Government’s implementation of the Paris Agreement; and
* Update emission factors used to estimate emissions resulting from the consumption of electricity purchased or lost from the grid (‘scope 2 emissions’) based on the latest available data.

**Purpose and operation**

The purpose of the *National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020* (the Instrument) is to correct an incorrect reference to the Determination in the 2020 Update Determination.

The Instrument will commence on 1 July 2020 at the same time as the commencement of the 2020 Update Determination. Details of the amendments contained in the Instrumentare provided below.

Further details of the Instrument are outlined in Attachment A.

The Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

A statement of the Instrument’s compatibility with human rights is set out in Attachment B.

**Consultation**

The 2020 Update Determination was consulted upon by public consultation from 29 May to 10 June 2020. No further consultation was conducted on this instrument as the original consultation was clear that the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* was intended to be amended by the 2020 Update Determination.

**Regulatory Impact**

The regulatory impacts of the 2020 Update Determination amendments were assessed as minor and not requiring a Regulation Impact Statement by the Office of Best Practice Regulation (ref 26344).

**ATTACHMENT A**

***National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020***

Section 1 – Name of Determination

This section provides that the title of the Instrument is the *National* *Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020*.

Section 2 – Commencement

This section provides for the Instrument to commence on 1 July 2020.

Section 3 – Authority

This section outlines that the Instrument is made under subsection 10(3) of the *National Greenhouse and Energy Reporting Act 2007*. The power to make legislative instruments under this subsection includes the power to amend or revoke instruments that have already been made, with any doubt about this resolved by subsection 33(3) of the *Acts Interpretation Act 1901*.

Section 4 – Amendment of the *National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update) Determination 2020*

This section amends the reference to the *National Greenhouse and Energy Reporting (Measurement) Determination 2008* in the Schedule of amendments. The date had been incorrectly referenced as “2009” rather than “2008”. The intent of the original instrument was always to amend the “2008” determination and there is no relevant “2009” determination to amend. Accordingly the unamended *National* *and Greenhouse Energy Reporting (Measurement) Amendment (2020 Update) Determination 2020* would be interpreted to amend the 2008 determination in accordance with the slip rule of statutory interpretation, this amendment makes that clear on the face of the instrument.

**ATTACHMENT B**

### Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020***

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### Overview of the Legislative Instrument

The *National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update—Reference Correction) Determination 2020* makes a minor amendment to the *National Greenhouse and Energy Reporting (Measurement) Amendment (2020 Update) Determination 2020* to correct a date referenced in the Schedule of that Instrument.

#### Human rights implications

This Legislative Instrument does not engage any of the applicable human rights or freedoms.

#### Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Angus Taylor MP**

**Minister for Energy and Emissions Reduction**